

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 98-0009
Use Tax
Calendar Year 1995

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ISSUES

I. Use Tax – Agricultural Equipment Exemption

Authority: IC 6-2.5-3-2; 45 IAC 2.2-5-2; 45 IAC 2.2-5-4; 45 IAC 2.2-5-6

Taxpayer protests us tax assessed on the purchase of a utility vehicle.

II. Negligence Penalty – Imposition

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2(c)

Taxpayer protests the imposition of the negligence penalty.

STATEMENT OF FACTS

Taxpayer raises cattle on a 300-acre farm.

Additional facts will be provided as needed.

I. Use Tax – Agricultural Equipment Exemption

DISCUSSION

Pursuant to IC 6-2.5-3-2, "an excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." Use tax was assessed on taxpayer's purchase of a 4-wheel drive, six wheel utility vehicle. Taxpayer protests the Department's use tax assessment.

In general, all purchases of tangible personal property by farmers are taxable. 45 IAC 2.2-5-2. To be exempt from tax, an item must be directly used by the farmer in the direct production of agricultural products. The fact that a piece of equipment is convenient, necessary or essential to farming is insufficient in itself to determine if it is used directly in direct production as required to be exempt. The equipment, in this case a utility vehicle, must have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process that produces agricultural products. 45 IAC 2.2-5-4. The fact that such equipment may not touch the commodity or livestock, or by itself, cause a change in the product, is not determinative. 45 IAC 2.2-5-6.

Taxpayer asserts several ways in which the vehicle is used. However, not all of these uses fit under the exemption described above. The Department finds that approximately 40% of taxpayer's usage of the vehicle are for exempt purposes and not subject to tax.

FINDING

The taxpayer's protest is sustained to the extent that 40% of taxpayer's uses of the vehicle are for exempt purposes.

II. Negligence Penalty - Imposition

DISCUSSION

Indiana Code 6-8.1-10-2.1(d) allows a penalty to be waived upon a showing that the failure to pay the deficiency was due to reasonable cause. Department regulation 45 IAC 15-11-2(c) requires that in order to establish reasonable cause, the taxpayers must show that they exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed. The Department finds that the taxpayer acted reasonably and exercised ordinary business care and prudence. Taxpayer did not willfully disregard Indiana law.

FINDING

The taxpayers' protest is sustained. The penalty imposed on the taxpayer will be waived.